

SENATE BILL NO. 473

INTRODUCED BY J. O'NEIL

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING AN ACTION FOR A MALPRACTICE CLAIM INVOLVING AN ABORTION PERFORMED ON A MINOR FROM LIMITS ON PUNITIVE DAMAGES UNLESS THE PARENTAL NOTICE OF ABORTION ACT WAS COMPLIED WITH; AMENDING SECTION 27-1-220, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Malpractice action -- abortion on minor -- damage limit inapplicable.

In an action against a medical provider resulting from an abortion performed on a minor, the limits in 27-1-220 do not apply unless the provisions of Title 50, chapter 20, part 2, were complied with prior to performing the abortion.

Section 2. Section 27-1-220, MCA, is amended to read:

"27-1-220. Punitive damages -- when allowed -- limitation. (1) Except as otherwise expressly provided by statute and subject to subsection (3), a judge or jury may award, in addition to compensatory damages, punitive damages for the sake of example and for the purpose of punishing a defendant.

(2) (a) Unless otherwise expressly provided by statute, punitive damages may not be recovered in any action arising from:

(i) contract; or

(ii) breach of contract.

(b) Subsection (2)(a) does not prohibit recovery of punitive damages in a products liability action or an action arising under 33-18-201.

(3) ~~An~~ Subject to [section 1], an award for punitive damages may not exceed \$10 million or 3% of a defendant's net worth, whichever is less. This subsection does not limit punitive damages that may be awarded in class action lawsuits."

NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an

1 integral part of Title 27, chapter 1, part 2, and the provisions of Title 27, chapter 1, part 2, apply to [section 1].

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3 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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5 NEW SECTION. **Section 5. Applicability.** [This act] applies to causes of action arising on or after [the
6 effective date of this act].

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